IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9232 of 2005

Between:

M. Saritha, W/o. Srinivas,
R/o. 6-2-758, Suryanagar Colony, Nalgonda

..... PETITIONER

AND

Nalgonda Municipality, Rep. by Commissioner, Nalgonda

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly in the nature of writ of Mandamus declaring the action of respondent in trying to demolish the construction of petitioner building bearing door No. 5-6-31 Prakasam Bazar, Nalgonda as arbitrary illegal, capricious and violative of principles of natural justice and fair play and consequently direct the respondent herein not to demolish the construction without following due process of law.

Counsel for the Petitioner:MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent: MR.P.RADHAKRISHNA

The Court at the admission stage made the following :

ORDER:

This writ petition is filed seeking a declaration that the action of the respondent-Municipality in trying to demolish the building of the petitioner bearing Door No.5-6-31, situated at Parakasam Bazar, Nalgonda, without following due process of law, is

arbitrary and illegal.

I have heard learned counsel for the petitioner and the learned standing counsel appearing for the respondent-Municipality.

Admittedly, the respondent has already passed an order on 12.01.2005 under Section 228(3) of the A.P.Municipalities Act, 1965 (for short “the Act”) and the structures in question are proposed to be removed in pursuance of the said order. In the circumstances if the petitioner is aggrieved, he ought to have challenged the order dated 12.01.2005 by working out the appropriate remedy as available under the Act, but he cannot maintain this writ petition questioning the consequential action. The learned counsel for the petitioner states that against the order dated 12.01.2005, a remedy by way of appeal is available under Section 345 of the Act, and the petitioner may be permitted to avail the said remedy.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to challenge the order dated 12.01.2005 by working out the alternative remedy of appeal available under the statute. However, having regard to the facts and circumstances of the case, there shall be a direction to the respondent not to demolish the structures in question for a period of two weeks from today. No costs.

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25.04.2005

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To

1. The Commissioner, Nalgonda Municipality, Nalgonda.

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